

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF TEXAS
AUSTIN DIVISION**

FRESHUB, INC., a Delaware Corporation,
and FRESHUB, LTD., an Israeli Limited
Liability Company,

Plaintiffs,

vs.

AMAZON.COM INC., a Delaware
Corporation, AMAZON.COM SERVICES,
LLC, a Delaware Limited Liability Company,
PRIME NOW, LLC, a Delaware Limited
Liability Company, WHOLE FOODS
MARKET SERVICES, INC., a Texas
Corporation,

Defendants.

Case No.: 1:19-cv-00885-ADA

**DEFENDANTS' NONINFRINGEMENT AND INVALIDITY DISCLOSURES
PURSUANT TO 35 U.S.C. § 282**

Pursuant to 35 U.S.C. § 282, Defendants Amazon.com Inc., Amazon.com Services, LLC, Prime Now LLC, and Whole Foods Market Services, Inc. ("Defendants") hereby incorporate by reference their prior written notice of patents and publications "to be relied upon as anticipation of the patent[s] in suit or . . . as showing the state of the art" pursuant to the Federal Rules of Civil Procedure and orders of this Court, including without limitation through discovery responses, initial disclosures, invalidity contentions, briefing, exhibit lists, and expert reports. Defendants reserve the right to rely upon all pages of the patents and publications identified in any such disclosures identified herein. Defendants also reserve the right to rely on any description of the prior art within the specification of the asserted patents or items of prior art cited on their face, on prior art material cited either by Plaintiffs, their predecessors-in-interest in the asserted patents, or

by the Patent Office during prosecution of the asserted patents, Defendants' own selected prior art in the disclosures above, as well as prior art that is incorporated by reference into any of that cited material.

Defendants further incorporate by reference their prior written notice of the "the name and address of any person who may be relied upon as the prior inventor or as having prior knowledge of or as having previously used or offered for sale the invention of the patent[s] in suit," as listed in the above disclosures. 35 U.S.C. § 282. Defendants reserve the right to amend and/or supplement this notice to add items that were inadvertently omitted.

I. PATENTS AND PUBLICATIONS ON WHICH DEFENDANTS MAY RELY AS ANTICIPATION OF THE PATENTS-IN-SUIT OR AS SHOWING THE STATE OF THE ART

In addition to the prior written notice already provided, Defendants identify the patents and other publications on which it may rely to show anticipation of the patents-in-suit or as showing the state of the art:

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II. PERSONS DEFENDANTS MAY RELY UPON AS THE PRIOR INVENTOR, AS HAVING PRIOR KNOWLEDGE OF, OR AS HAVING PREVIOUSLY USED OR OFFERED FOR SALE THE ALLEGED INVENTIONS CLAIMED IN THE PATENTS-IN-SUIT

In addition to the prior written notice already provided, including in the parties' trial witness lists, Defendants identify the inventors and authors of the patents-in-suit and the references cited above, as well as individuals identified in Defendants' prior written disclosures as persons that may be relied upon as the prior inventor, as having prior knowledge of, or as having previously used or offered for sale the alleged inventions claimed in the patents-in-suit.

May 14, 2021

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CERTIFICATE OF SERVICE

I hereby certify that on May 14, 2021, all counsel of record who have consented to electronic service are being served with a copy of this document via electronic mail.

/s/ Eric B. Young

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